

FRIENDSHIP AND COMMERCE

Convention signed at Paris September 30, 1800, with additional article and provisos

*Senate advice and consent to ratification, with a proviso, February 3, 1801*¹

*Ratified by the President of the United States, with a proviso, February 18, 1801*¹

*Ratified by France, with a proviso, July 31, 1801*²

Ratifications exchanged at Paris July 31, 1801

Entered into force July 31, 1801

Senate resolution declaring convention fully ratified December 19, 1801

Proclaimed by the President of the United States December 21, 1801

Expired July 31, 1809

8 Stat. 178; Treaty Series 85³

CONVENTION BETWEEN THE FRENCH REPUBLIC AND THE UNITED STATES OF AMERICA

The Premier Consul of the French Republic in the name of the People of France, and the President of the United States of America, equally desirous to terminate the differences which have arisen between the two States, have respectively appointed their Plenipotentiaries, and given them full power to treat upon those differences and to terminate the same, that is to say, the Premier Consul of the French Republic, in the name of the People of France has appointed for the Plenipotentiaries of the said Republic, the Citizens, Joseph Bonaparte, Ex-Ambassador of the Republic at Rome, and Counsellor of State, Charles Pierre Claret Fleurieu, member of the national Institute, and of the Board of longitude of France, and Counsellor of State—President of the section of the Marine, and Pierre Louis Roederer, member of the national institute of France; and Counsellor of State—President of the Section of the

¹ The U.S. proviso called for deletion of the second article and the addition or insertion of the following article: "It is agreed that the present Convention shall be in force for the term of eight years from the time of the exchange of the Ratifications."

² In its instrument of ratification France consented to accept, ratify, and confirm the convention "with the addition importing that the convention shall be in force for the space of eight years and with the retrenchment of the second article: *Provided*, that by this retrenchment the two states renounce the respective pretensions which are the object of the said article."

³ For a detailed study of this convention, see 2 Miller 457.

Interior: and the President of the United States of America by and with the advice, and consent of the Senate of said States, has appointed for their Plenipotentiaries, Oliver Ellsworth, Chief Justice of the United States, William Richardson Davie, late Governor of the State of North Carolina, and William Vans Murray, Minister Resident of the United States at the Hague, who after having exchanged their full powers, and after full and mature discussion of the respective interests have agreed on the following articles.

ARTICLE I

There shall be a firm, inviolable, and universal peace, and a true and sincere Friendship between the French Republic, and the United States of America, and between their respective countries, territories, cities, towns, and people without exception of persons, or places.

ARTICLE II ⁴

The Ministers Plenipotentiary of the two Parties, not being able to agree at present, respecting the Treaty of Alliance of 6th February 1778,⁵ the Treaty of Amity and Commerce of the same date,⁶ and the Convention of 14th November 1788,⁷ nor upon the indemnities mutually due, or claimed, the Parties will negotiate further on these subjects at a convenient time, and until they may have agreed upon these points, the said Treaties, and Convention shall have no operation, and the relations of the two Countries shall be regulated as follows.

ARTICLE III

The Public Ships, which have been taken on one part, and the other, or which may be taken before the exchange of ratifications shall be restored.

ARTICLE IV

Property captured, and not yet definitively condemned, or which may be captured before the exchange of ratifications, (contraband goods destined to an Enemy's port excepted) shall be mutually restored on the following proofs of ownership, viz, The proof on both sides, with respect to Merchant Ships, whether armed, or unarmed, shall be a Passport in the form following

To all who shall see these presents. Greeting: It is hereby made known that leave, and permission has been given to Master, and Commander of the Ship called of the town of burthen Tons, or thereabouts, lying at present in the port, and haven of and bound for and laden with after that his

⁴ Art. II was deleted before the ratifications were exchanged. See footnotes 1 and 2, p. 801.

⁵ TS 82, *ante*, p. 777.

⁶ TS 83, *ante*, p. 763.

⁷ TS 84, *ante*, p. 794.

ship has been visited, and before sailing, he shall make oath before the Officers, who have the jurisdiction of maritime affairs, that the said Ship belongs to one, or more of the subjects of the act whereof shall be put at the end of these presents; as likewise that he will keep, and cause to be kept by his crew on board, the marine ordinances, and regulations, and enter in the proper Office a list, signed, and witnessed, containing the names, and surnames, the places of birth, and abode of the crew of his Ship, and of all who shall embark on board her, whom he shall not take on board, without the knowledge, and permission of the Officers of the Marine; and in every port, or Haven, where he shall enter with his ship, he shall shew this present leave to the Officers, and Judges of the Marine, and shall give a faithful account to them, of what passed, and was done during his voyage, and he shall carry the colours, arms, and ensigns of the (French Republic or the United States) during his voyage. In witness whereof we have signed these presents, and put the seal of our arms thereunto, and caused the same to be countersigned by at the day of A. D.

And this Passport will be sufficient without any other paper, any ordinance to the contrary notwithstanding: which Passport shall not be deemed requisite to have been renewed, or recalled, whatever number of voyages the said Ship may have made, unless she shall have returned home within the space of a year. Proof with respect to the cargo, shall be certificates containing the several particulars of the cargo, the place whence the Ship sailed, and whither she is bound, so that the forbidden, and contraband goods may be distinguished by the Certificates: which certificates shall have been made out by the Officers of the place, whence the ship set sail, in the accustomed form of the country. And if such passport or certificates, or both, shall have been destroyed by accident or taken away by force, their deficiency may be supplied by such other proofs of ownership as are admissible by the general usage of nations. Proof with respect to other than Merchant ships, shall be the commission they bear.

This article shall take effect from the date of the signature of the present Convention. And if from the date of the said signature, any property shall be condemned contrary to the intent of the said Convention before the knowledge of this stipulation shall be obtained, the property so condemned shall without delay be restored or paid for.

ARTICLE V

The debts contracted by one of the two nations, with individuals of the other, or by the individuals of one, with the individuals of the other shall be paid, or the payment may be prosecuted in the same manner, as if there had been no misunderstanding between the two States. But this clause shall not extend to indemnities claimed on account of captures, or confiscations.

ARTICLE VI

Commerce between the Parties shall be free. The vessels of the two nations, and their Privateers, as well as their prizes, shall be treated in the respective ports, as those of the nation the most favoured; and in general the two parties shall enjoy in the ports of each other, in regard to commerce, and navigation, the privileges of the most favoured nation.

ARTICLE VII

The Citizens, and inhabitants of the United States shall be at liberty to dispose by testament, donation, or otherwise, of their goods, moveable, and immoveable, holden in the territory of the French Republic in Europe, and the Citizens of the French Republic, shall have the same liberty with regard to goods, moveable, and immovable, holden in the territory of the United States, in favor of such persons as they shall think proper. The Citizens and inhabitants of either of the two countries, who shall be heirs of goods, moveable, or immoveable in the other shall be able to succeed *ab intestato*, without being obliged to obtain letters of naturalization, and without having the effect of this provision contested or impeded under any pretext whatever: and the said heirs, whether such by particular title, or *ab intestato*, shall be exempt from every duty whatever in both countries. It is agreed that this article, shall in no manner derogate from the laws, which either State may now have in force, or hereafter may enact to prevent emigration: and also that in case the laws of either of the two States should restrain Strangers from the exercise of the rights of Property with respect to real estate, such real estate may be sold, or otherwise disposed of, to citizens, or inhabitants of the country where it may be, and the other nation shall be at liberty to enact similar laws.

ARTICLE VIII

To favor commerce on both sides, it is agreed that in case a war should break out between the two nations, which God forbid, the term of six months after the declaration of war, shall be allowed to the Merchants and other citizens and inhabitants respectively, on one side, and the other, during which time they shall be at liberty, to withdraw themselves, with their effects, and movables, which they shall be at liberty to carry, send away, or sell, as they please, without the least obstruction; nor shall their effects, much less their persons be seized during such term of six months; on the contrary Passports which shall be valid for a time necessary for their return, shall be given to them, for their vessels, and the effects which they shall be willing to send away, or carry with them; and such Passports shall be a safe conduct against all insults, and prizes, which Privateers may attempt against their persons and effects. And if any thing be taken from them, or any injury done to them, or their effects, by one of the parties, their citizens, or Inhabitants, within the term above prescribed, full satisfaction shall be made to them on that account.

ARTICLE IX

Neither the debts due from individuals of the one nation, to individuals of the other, nor shares, nor monies which they may have in public funds, or in the public, or private banks, shall ever, in any event of war, or national difference be sequestered, or confiscated.

ARTICLE X

It shall be free for the two contracting parties to appoint commercial agents for the protection of trade, to reside in France, and the United States. Either party may except such place as may be thought proper, from the residence of these agents. Before any Agent shall exercise his functions, he shall be accepted in the usual forms, by the party to whom he is sent, and when he shall have been accepted and furnished with his exequatur, he shall enjoy the rights, and prerogatives of the similar Agents of the most favored nations.

ARTICLE XI

The Citizens of the French Republic shall pay in the ports, havens, roads, countries, islands, cities, and towns of the United States, no other or greater duties, or imposts, of what nature soever they may be, or by what name soever called, than those, which the nations most favored are, or shall be obliged to pay, and they shall enjoy all the rights, liberties, privileges, immunities, and exemptions, in trade, navigation and commerce, whether in passing from one port in the said States, to another, or in going to, and from the same, from, and to any part of the world, which the said nations do, or shall enjoy. And the Citizens of the United States shall reciprocally enjoy in the territories of the French Republic, in Europe, the same privileges, and immunities, as well for their property, and persons, as for what concerns trade, Navigation, and Commerce.

ARTICLE XII

It shall be lawful for the Citizens of either Country to sail with their ships and Merchandize (contraband goods always excepted) from any port whatever, to any port of the enemy of the other, and to sail, and trade with their ships, and Merchandize, with perfect security, and liberty, from the countries ports, and places, of those who are enemies of both, or of either party, without any opposition, or disturbance whatsoever, and to pass not only directly from the places and ports of the enemy aforementioned to neutral ports, and places, but also from one place belonging to an enemy, to another place belonging to an enemy, whether they be under the jurisdiction of the same power, or under several, unless such ports, or places shall be actually blockaded, besieged, or invested.

And whereas it frequently happens that Vessels sail for a port or place belonging to an enemy without knowing that the same is either besieged, block-

aded, or invested, it is agreed that every vessel so circumstanced may be turned away from such port, or place, but she shall not be detained, nor any part of her cargo if not contraband be confiscated, unless after notice of such blockade or investment, she shall again attempt to enter: but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel of either, that may have entered into such port, or place, before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her cargo, nor if found therein after the reduction and surrender of such place, shall such vessel or her cargo be liable to confiscation but they shall be restored to the Owners thereof.

ARTICLE XIII

In order to regulate what shall be deemed contraband of war, there shall be comprised under that denomination, Gun-powder, salt-petre, Petards, match, ball, bombs, grenades, carcasses, Pikes, Halberds, swords, belts, Pistols, holsters, cavalry saddles, and furniture, Cannon, Mortars, their carriages, and beds, and generally all kinds of arms, ammunition of war, and instruments fit for the use of Troops, all the above articles whenever they are destined to the port of an enemy, are hereby declared to be contraband, and just objects of confiscation: but the vessel in which they are laden, and the residue of the cargo shall be considered free, and not in any manner infected by the prohibited goods, whether belonging to the same or a different Owner.

ARTICLE XIV

It is hereby stipulated that free ships shall give a freedom to goods, and that every thing shall be deemed to be free, and exempt which shall be found on board the ships belonging to the citizens of either of the contracting parties, altho' the whole lading, or any part thereof should appertain to the enemies of either, contraband goods being always excepted. It is also agreed in like manner, that the same liberty be extended to persons, who are on board a free ship, with this effect, that altho' they be enemies to either party, they are not to be taken out of that free ship, unless they are soldiers and in actual service of the enemy.

ARTICLE XV

On the contrary, it is agreed, that whatever shall be found to be laden by the citizens of either party on any ship, belonging to the enemies of the other, or their Citizens, shall be confiscated without distinction of goods, contraband, or not contraband, in the same manner, as if it belonged to the enemy, except such goods, and merchandizes as were put on board such ship before the declaration of war, or even after such declaration, if so be it were done, without knowledge of such declaration, so that the goods of the citizens of either party, whether they be of the nature of such as are prohibited, or otherwise, which as is aforesaid were put on board any ship belonging to an enemy, be-

fore the war, or after the declaration of the same, without the knowledge of it, shall no ways be liable to confiscation, but shall well, and truly be restored without delay to the Proprietors demanding the same; but so as that if the said Merchandizes be contraband it shall not be any ways lawful, to carry them afterwards to any ports belonging to the enemy. The two contracting parties agree, that the term of two months being passed after the declaration of war, their respective citizens, from whatever part of the world they come, shall not plead the ignorance mentioned in this Article.

ARTICLE XVI

The Merchant ships belonging to the citizens of either of the contracting parties, which shall be bound to a port of the enemy of one of the parties, and concerning whose voyage, and the articles of their cargo, there shall be just grounds of suspicion, shall be obliged to exhibit, as well upon the high seas, as in the ports or roads, not only their passports, but likewise their certificates, shewing that their goods are not of the quality of those which are specified to be contraband in the 13th Article of the present Convention.

ARTICLE XVII

And that captures on light suspicions may be avoided, and injuries thence arising be prevented, it is agreed, that when one party shall be engaged in war and the other party be neuter, the ships of the neutral party shall be furnished with passports similar to that described in the fourth Article, that it may appear thereby that the ships really belong to the citizens of the neutral party: they shall be valid for any number of Voyages, but shall be renewed every year, that is if the ship happens to return home in the space of a year. If the ships are laden they shall be provided not only with the passports above mentioned, but also with certificates similar to those described in the same article, so that it may be known whether they carry any contraband goods. No other paper shall be required, any usage or ordinance to the contrary notwithstanding. And if it shall not appear from the said certificates that there are contraband goods on board, the ships shall be permitted to proceed on their voyage. If it shall appear from the certificates that there are contraband goods on board any such ship, and the commander of the same shall offer to deliver them up, the offer shall be accepted, and the ship shall be at liberty to pursue it's voyage; unless the quantity of the contraband goods be greater than can conveniently be received on board the ship of war, or privateer, in which case the ship may be carried into port for the delivery of the same. If any ship shall not be furnished with such passport, or certificates, as are above required for the same, such case may be examined by a proper judge, or tribunal, and if it shall appear from other documents, or proofs, admissible by the usage of nations, that the ship belongs to the citizens of the neutral party it shall not be confiscated, but shall be released with her

cargo (contraband goods excepted) and be permitted to proceed on her voyage.

If the Master of a Ship named in the passport should happen to die, or be removed by any other cause, and another put in his place, the ship, and cargo shall nevertheless be equally secure, and the passport remain in full force.

ARTICLE XVIII

If the ships of the citizens of either of the parties, shall be met with, either sailing along the coasts or on the high seas, by any ship of war, or privateer of the other; for the avoiding of any disorder, the said ships of war, or privateers shall remain out of Canon-shot, and may send their boats on board the Merchant ship, which they shall so meet with, and may enter her to the number of two, or three men only, to whom the Master or commander of such ship, shall exhibit his passport concerning the property of the ship made out according to the form prescribed in the fourth Article. And it is expressly agreed that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting his papers, or for any other examination whatever.

ARTICLE XIX

It is expressly agreed by the contracting parties, that the stipulations above mentioned, relative to the conduct to be observed on the sea by the cruizers of the belligerent party, towards the ships of the neutral party, shall be applied only to ships sailing without convoy; and when the said ships shall be convoyed, it being the intention of the parties to observe all the regard due to the protection of the Flag displayed by public ships, it shall not be lawful to visit them: but the verbal declaration of the commander of the convoy, that the ships he convoys belong to the nation whose flag he carries, and that they have no contraband goods on board shall be considered by the respective cruizers as fully sufficient: the two parties reciprocally engaging not to admit under the protection of their convoys, ships which shall carry contraband goods destined to an enemy.

ARTICLE XX

In all cases where vessels shall be captured, or detained, under pretence of carrying to the enemy contraband goods, the Captor shall give a receipt for such of the papers of the Vessel as he shall retain, which receipt shall be annexed to a descriptive list of the said papers: and it shall be unlawful to break up, or open the hatches, chests, trunks, casks, bales, or vessels found on board, or remove the smallest part of the goods, unless the lading be brought on shore, in presence of the competent officers, and an inventory be made by them of the said goods. Nor shall it be lawful to sell, exchange or alienate

the same, in any manner, unless there shall have been lawful process, and the competent judge or judges shall have pronounced against such goods sentence of confiscation, saving always the ship and the other goods which it contains.

ARTICLE XXI

And that proper care may be taken of the vessel and cargo, and embezzlement prevented, it is agreed that it shall not be lawful to remove the master or commander or Supercargo of any captured ship, from on board thereof, either during the time the ship may be at sea, after her capture, or pending the proceedings against her, or her cargo, or any thing relative thereto. And in all cases where a vessel of the citizens of either party shall be captured, or seized, and held for adjudication, her officers, passengers, and crew shall be hospitably treated. They shall not be imprisoned, nor deprived of any part of their wearing apparel, nor of the possession, and use of their money, not exceeding for the captain super cargo, and mate five hundred dollars each and for the Sailors and Passengers, one hundred dollars each.

ARTICLE XXII

It is further agreed that in all cases, the established courts for Prize Causes, in the Country to which the prizes may be conducted, shall alone take cognizance of them. And when ever such tribunal of either of the parties, shall pronounce judgement against any vessel, or goods, or property, claimed by the citizens of the other party, the sentence or decree shall mention the reasons, or motives on which the same shall have been founded, and an authenticated copy of the sentence or decree and of all the proceedings in the case shall if demanded be delivered to the commander, or agent of the said vessel without any delay, he paying the legal fees for the same.

ARTICLE XXIII

And that more abundant care may be taken for the security of the respective citizens of the contracting parties, and to prevent their suffering injuries by the men of war, or privateers of either party, all commanders of ships of war, and privateers, and all others of the said citizens shall forbear doing any damage to those of the other party, or committing any outrage against them, and if they act to the contrary, they shall be punished, and shall also be bound in their persons, and estates, to make satisfaction and reparation for all damages and the interest thereof, of whatever nature the said damages may be.

For this cause all commanders of Privateers before they receive their commissions shall hereafter be obliged to give, before a competent judge, sufficient security, by at least two responsible sureties who have no interest in the said Privateer, each of whom together with the said commander, shall be jointly,

and severally bound in the sum of seven thousand dollars or Thirty Six Thousand eight hundred and twenty Francs, or if such ships be provided with above one hundred and fifty seamen or soldiers in the sum of Fourteen thousand dollars or Seventy three Thousand six hundred and forty francs, to satisfy all damages, and injuries, which the said privateer, or her officers, or men, or any of them may do or commit, during their cruize contrary to the tenor of this convention or to the laws, and instructions for regulating their conduct; and further, that in all cases of aggressions, the said commissions shall be revoked, and annulled.

ARTICLE XXIV

When the ships of war of the two contracting parties, or those belonging to their citizens, which are armed in war, shall be admitted to enter with their prizes the ports of either of the two parties, the said public or private ships, as well as their prizes, shall not be obliged to pay any duty either to the officers of the place, the judges or any others: Nor shall such prizes, when they come to, and enter the ports of either party, be arrested or seized, nor shall the Officers of the place, make examination concerning the lawfulness of such prizes; but they may hoist sail at any time, and depart, and carry their prizes, to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to shew. It is always understood that the stipulations of this article shall not extend beyond the privileges of the most favored nation.

ARTICLE XXV

It shall not be lawful for any foreign Privateers who have commissions from any Prince, or State, in enmity with either nation, to fit their ships in the ports of either nation, to sell their prizes, or in any manner to exchange them; neither shall they be allowed to purchase provisions, except such as shall be necessary for their going to the next port of that Prince, or State, from which they have received their commissions.

ARTICLE XXVI

It is further agreed that both the said contracting parties, shall not only refuse to receive any pirates into any of their ports, havens, or towns, or permit any of their inhabitants to receive, protect, harbour, conceal, or assist them in any manner, but will bring to condign punishment, all such inhabitants, as shall be guilty of such acts, or Offences.

And all their ships, with the goods, or merchandizes taken by them, and brought into the port of either of the said parties, shall be seized as far as they can be discovered, and shall be restored to the owners, or their Factors, or agents, duly authorised by them, (proper evidence being first given before competent judges for proving the property) even in case such effects should

have passed into other hands by sale, if it be proved, that the Buyers knew, or had good reason to believe, or suspect, that they had been piratically taken.

ARTICLE XXVII

Neither party will intermeddle in the Fisheries of the other on it's coast nor disturb the other in the exercise of the rights, which it now holds or may acquire on the coast of Newfoundland, in the Gulph of Saint Lawrence or ellswhere on the American coast, northward of the United States. But the whale and seal Fisheries shall be free to both in every quarter of the world.

This Convention shall be ratified on both sides in due form, and the ratifications exchanged in the space of six months or sooner if possible.

In faith whereof the respective plenipotentiaries have signed the above articles both in the French and English languages, and they have thereto affixed their seals, declaring nevertheless that the signing in the two languages, shall not be brought into precedent nor in any way operate to the prejudice of either party.

Done at Paris the eighth day of Vendémiaire of the ninth year of the French Republic, the thirtieth day of September, Anno Domini Eighteen Hundred.

JOSEPH BONAPARTE	[SEAL]
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